IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

Civil Writ petition No. 191 of 2001.

Judgment reserved on 20.11.2007

Date of Decision: 14.12.2007.

Nek Ram & another ***…..Petitioners.***

Vs.

State of H.P. & others ***…..Respondents.***

Coram

The Hon'ble Mr. Justice Dev Darshan Sud,Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. T.S. Chauhan, Advocate.

For the Respondents: Mr. Rajan Dewan, Addl. Advocate General, for respondent Nos. 1 and 2.
Mr. K.D. Sood, Advocate, for respondent No. 3.

Dev Darshan Sud, Judge.

The petitioners have challenged the orders passed by respondent Nos. 1 and 2 especially order dated 18.8.2000, Annexure P-J passed by respondent No. 2, Deputy Commissioner, District Bilaspur, H.P. All the allegations made are not being detailed as the writ petition requires to be allowed on the facts noticed hereinafter. The order dated 18.8.2000 has been passed by the Deputy Commissioner, Bilaspur in file No. 653/89 which was announced on 18.8.2000. The petitioners have placed on record Annexure P-M

[1] Whether Reporters of Local Papers may be allowed to see the judgment?

showing that on that date respondent No. 2 was not present in Bilaspur. The document is the tour programme of the Deputy Commissioner, Bilaspur, which shows that on 18.8.2000 he left Bilaspur at 7.30 a.m. in the morning and was scheduled to back on 8.30 p.m. in the evening. The respondent, as aforesaid has been shown to be travelling by the Government vehicle and the purpose of the visit is discussion with the Financial Commissioner, Revenue. These facts are not disputed before me. In the circumstances, it becomes difficult to accept that the order Annexure P-J has been passed by respondent No. 2 by application of mind. Surely, if he was away from Bilaspur from 7.30. a.m. till 8.30 p.m. at night, there is no explanation as to how the order came to be announced on that date itself. It is nobody's case that the order was pronounced during the normal working hours i.e. between 10 a.m. to 5 p.m. I, therefore, hold that the order has been passed without application of mind by respondent No. 2 in gross violation of the provisions of Article 14 of the Constitution of India. The order also reveals that it is a non-speaking order following the directions issued by the Financial Commissioner (Appeals). It is trite to observe that any adjudicatory power has to be exercised with diligence and responsibility.

In the facts and circumstances of the case this writ petition is accepted. The order Annexure P-J is quashed and set aside. A direction is issued to the Deputy Commissioner to hear the parties afresh and to decide the case in accordance with law. While disposing of the matter he will keep in mind that the decision arrived at would be by way of speaking order. He should deal with the case

as expeditiously as possible as the matter has been hanging fire since last more than 20 years. This writ petition is accordingly allowed with the aforesaid directions. The Deputy Commissioner will issue fresh notices to the parties for further appearance. There shall be no order as to costs.

14th December, 2007. **(Dev Darshan Sud),**
(cm) **Judge.**